



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-124, C-570-125]

Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders – Dual-Piston Engines; Rescission in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of dual-piston engines with a single, common combustion chamber, of the type designed by FNA Group, Inc. (FNA), produced in and exported from the People's Republic of China (China) constitute later-developed merchandise that circumvent the antidumping duty (AD) and countervailing duty (CVD) orders on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines), from China. Commerce also preliminarily determines that this affirmative circumvention finding should be applied on a country-wide basis.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Paul Gill, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5673.

### SUPPLEMENTARY INFORMATION:

#### Background

On May 4, 2021, Commerce published AD and CVD orders on small vertical engines from China.<sup>1</sup> On April 25, 2022, in response to a request from Briggs & Stratton, LLC (the

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<sup>1</sup> See *Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 86 FR 23675 (May 4, 2021) (*Orders*).

petitioner), Commerce initiated a circumvention inquiry to determine whether dual-piston engines with a single, common combustion chamber, of the type designed by FNA, involve a “minor alteration” to subject merchandise or are “later-developed merchandise,” such that they should be considered subject to the AD and CVD orders on small vertical engines from China.<sup>2</sup> The petitioner alleges that such merchandise, produced in, and exported from, China, and imported into the United States may circumvent the *Orders*. For a complete description of the events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.<sup>3</sup>

#### Scope of the *Orders*

The products subject to the *Orders* are small vertical engines from China. For a complete description of the scope of the *Orders*, *see* the Preliminary Decision Memorandum.<sup>4</sup>

#### Merchandise Subject to the Circumvention Inquiry

The merchandise subject to this circumvention inquiry are dual-piston engines with a single, common combustion chamber, of the type designed by FNA, otherwise meeting the scope of the *Orders*. In the *Initiation Notice*, Commerce used the term “dual-piston engine” to refer to the engines subject to this inquiry, such as FNA’s dual-piston engine. More specifically, the dual-piston engines subject to this circumvention inquiry have a common combustion chamber shared by two cylinders working in unison.<sup>5</sup> For a complete description of the inquiry merchandise, *see* the Preliminary Decision Memorandum.

#### Methodology

Commerce is conducting this circumvention inquiry pursuant to section 781(d) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(k). For a complete description of

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<sup>2</sup> *See Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People’s Republic of China: Initiation of Circumvention Inquiry of the Antidumping and Countervailing Duty Orders-Dual-Piston Engines*, 87 FR 24280 (April 25, 2022) (*Initiation Notice*); *see also* Petitioner’s Letter, “Request for Anti-Circumvention Inquiry Pursuant to section 781(c) and/or 781(d) of the Tariff Act of 1930,” dated March 4, 2022.

<sup>3</sup> *See* Memorandum, “Certain Vertical Shaft Engines Between 99cc and Up To 225cc from the People’s Republic of China: Preliminary Decision Memorandum for Circumvention Inquiry – Dual-Piston Engines,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *Id.* at 2-3.

<sup>5</sup> *See* Petitioner’s Letter, “Request for Anti-Circumvention Inquiry Pursuant to Section 781(c) and/or Section 781(d) of the Tariff Act of 1930,” dated March 4, 2022, at 2-3.

the events that followed the initiation of this circumvention inquiry, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision

Memorandum can be accessed directly at

<https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Affirmative Preliminary Determination of Circumvention

As detailed in the Preliminary Decision Memorandum, Commerce preliminarily determines that imports of dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in and exported from China constitute later-developed merchandise that circumvent the *Orders*, pursuant to section 781(d) of the Act and 19 CFR 351.226(k). We also preliminarily determine that this affirmative circumvention finding should be applied on a country-wide basis.

#### Partial Rescission

Commerce initiated this inquiry pursuant to sections 781(c) and (d) of the Act.<sup>6</sup> However, because we preliminarily determine that dual-piston engines with a single, common combustion chamber, of the type designed by FNA, are later-developed merchandise that are circumventing the *Orders*, pursuant to section 781(d) of the Act, Commerce is not evaluating whether the inquiry merchandise was also “altered in form or appearance in minor respects” in an attempt to circumvent the *Orders*, pursuant to 19 CFR 351.226(j) and section 781(c) of the

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<sup>6</sup> *See Initiation Notice*, 87 FR at 24280-81.

Act. Therefore, we are rescinding the prong of this circumvention inquiry pertaining to section 781(c) of the Act.

### Suspension of Liquidation

In accordance with 19 CFR 351.226(l)(2), we will direct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of previously suspended entries and to suspend liquidation of all entries of dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in and exported from China that are entered, or withdrawn from warehouse, for consumption on or after April 25, 2022 (*i.e.*, the date of the publication of the *Initiation Notice*).<sup>7</sup> Pursuant to 19 CFR 351.226(l)(2), we will also instruct CBP to require cash deposits of estimated ADs and CVDs equal to the cash deposit rates in effect for small vertical engines for each unliquidated entry of dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in and exported from China that have been entered, or withdrawn from warehouse, for consumption on or after April 25, 2022.<sup>8</sup> These suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

### Public Comments

Interested parties are invited to comment on this preliminary determination of circumvention and may submit case briefs or other written comments within 30 days of the date of publication of this notice.<sup>9</sup> Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.<sup>10</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this circumvention inquiry are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief

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<sup>7</sup> *Id.*

<sup>8</sup> *See Orders.*

<sup>9</sup> Commerce is exercising its discretion, under 19 CFR 351.309(c)(1)(ii), to alter the time limit for filing of case briefs.

<sup>10</sup> Commerce is exercising its discretion, under 19 CFR 351.309(d)(1), to alter the time limit for filing of rebuttal briefs.

summary of the argument; and (3) a table of authorities.<sup>11</sup> Case and rebuttal briefs should be filed electronically via ACCESS.<sup>12</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of the issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing at a later date.

All submissions must be filed electronically and received successfully in its entirety via ACCESS by 5:00 p.m. Eastern Time on the date that they are due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>13</sup>

#### Notification to Interested Parties

This determination is published in accordance with section 781(d) of the Act and 19 CFR 351.226(f) and (k).

Dated: September 22, 2022.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

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<sup>11</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>12</sup> See 19 CFR 351.303.

<sup>13</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

## Appendix

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Statutory and Regulatory Framework
- VI. Comments and Analysis
- VII. Country-Wide Circumvention Finding
- VIII. Partial Recission
- IX. Recommendation

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